

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

DAVID VOYLES, Register No. 176039,)	
)	
Plaintiff,)	
)	
v.)	No. 08-4089-CV-C-SOW
)	
DAVE DORMIRE, et al.,)	
)	
Defendants.)	

ORDER

On November 20, 2008, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on December 31, 2008. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that in light of the above, plaintiff's motion for discovery is denied as moot. [36] It is further

ORDERED that the Report and Recommendation of November 20, 2008, is adopted. [33] It is further

ORDERED that defendants' motion of May 22, 2008, to dismiss is granted and plaintiff's claims are dismissed, without prejudice, pursuant to 42 U.S.C. § 1997e, for failure to exhaust administrative remedies prior to bringing this lawsuit. [10] It is further

ORDERED that defendant Dormire's motion of June 19, 2008, to dismiss for failure to state a claim against him is granted. [15] It is further

ORDERED that plaintiff's motion of September 19, 2008, to compel, treated as one for preliminary injunctive relief, is denied. [28]

/s/Scott O. Wright
SCOTT O. WRIGHT
Senior United States District Judge

Dated: January 21, 2009